THE HON'BLE SRI JUSTICE N.V. RAMANA

W.P. No. 27092 of 2006

O r d e r:

Assailing the award dated 29.08.2005, passed by the Labour Court, Warangal, in I.D. No. 29 of 1997, published in G.O. Rt. No. 2083, dated 18.10.2005, the petitioner filed the present writ petition.

The petitioner, while working as Supervisor in Warangal District Co-operative Central Bank, at Narmetta Branch, and also Person-in-Charge of Primary Agricultural Cooperative Society, Ladnoor, was issued a charge sheet alleging that he issued temporary receipts to a tune of Rs.26,370/- to the clerks of PACS, Rebarthy and PACS, Ladnur and Rs.36,000/- to the members of PACS, Ladnur, and not remitted the same into the loan accounts of the Society with the Bank, and misappropriated the funds of the Society and Bank to a tune of Rs.22,000/-. The petitioner submitted his explanation denying the said charges. Having not satisfied with the same, an enquiry was conducted, and based on the enquiry report, which held the charges proved, a show cause notice dated 08.04.1995 calling upon the petitioner to show cause as to why he shall not be removed from service was issued. The petitioner submitted his explanation for the show cause notice of removal. However, the petitioner was removed from service vide proceedings dated 06.06.1995 of the disciplinary authority. Aggrieved by the same, the petitioner raised an industrial dispute in I.D. No. 29 of 1997 before the Labour Court, which by award dated 29.08.2005, published in G.O. Rt. No. 2083, dated 18.10.2005, dismissed the same, upholding the orders of the disciplinary authority.

Assailing the said award and notification, the petitioner filed the present writ petition.

The learned counsel for the petitioner submitted that the petitioner has not misappropriated any amounts, and as and when the amounts are received the same were credited to the loan accounts of the Society. He submitted that no reasonable opportunity was given to the petitioner and principles of natural justice are violated in conducting the enquiry. He further submitted that the petitioner despite denying the charges leveled against him, yet the enquiry officer held them proved, and based on the said report, the disciplinary authority passed order of removal, as confirmed by the Labour Court, which is illegal and arbitrary. He, however, submitted that the punishment of removal from service imposed on the petitioner is disproportionate to the proved charges, and since the petitioner had worked for the bank for more than 20 years, a lenient view should be taken in imposing the punishment.

The learned Standing Counsel for respondent No.2-Bank submitted that the petitioner misappropriated certain amounts of the Society and the Bank, and he also admitted the same in his explanation submitted to the charge sheet. He submits that in view of the admission made by the petitioner in his explanation that he utilized the amounts for his own purpose, though there is no need to order enquiry, however, an enquiry was ordered, and the petitioner, having participated in the enquiry proceedings all through, cross-examined the witnesses produced by the 2nd respondent-Bank apart from examining his own witnesses, and signed underneath the enquiry proceedings, and therefore, the enquiry was conducted by following the principles of natural justice and by affording reasonable opportunity to the petitioner. He further submitted that the Enquiry

Officer having found him guilty of the charges, the disciplinary authority imposed punishment of dismissal from service, which was confirmed by the Labour Court. Having regard to the nature of proved charges, the punishment of removal from service, cannot be said to be disproportionate, warranting interference therewith by this Court in exercise of its jurisdiction under Article 226 of the Constitution of India. He thus prayed that the writ petition be dismissed.

Heard the learned counsel for the petitioner and the learned Standing Counsel for respondent No. 2-Bank.

The parameters and scope of judicial review of this Court under Article 226 of the Constitution of India to issue a writ of certiorari are limited to – firstly to correct errors of jurisdiction when the inferior Court or Tribunal acts without jurisdiction or in excess or fails to exercise it, secondly correct errors of law apparent on the face of the record, and thirdly correct and interfere with the findings that are base on suspicion, conjectures or surmises or no reason. It is within these parameters, the award of the Labour Court has to be examined.

Though the petitioner contends that no reasonable opportunity was given to him to participate in the enquiry, the fact remains, the petitioner, having participated in the enquiry proceedings all through, signed on the bottom of each and every page of the enquiry proceedings. The petitioner also cross-examined all the witnesses produced by the 2nd respondent-Bank apart from examining himself and his witnesses. That apart, the petitioner's counsel also filed a memo dated 14.06.2005 before the Labour Court stating that they are not disputing the conduct of enquiry. Therefore, the petitioner now cannot be allowed to contend that no reasonable opportunity was given to him to participate in the enquiry and principles of natural justice are violated in conducting the enquiry.

As can be seen from the award of the Labour Court, the petitioner, having received Rs.6,000/- from one Sanjeeva Reddy, Clerk of PACS, Rebarthy, Rs.2,500/- from Vishnu, Clerk, and Rs.6,000/- from one Mohinuddin, failed to remit the same immediately and misappropriated the same. Apart from that, according to the petitioner, since one Bikshapathy was facing charges of misappropriation in a case, to accommodate him, he passed two receipts in his favour to a tune of Rs.30,000/- without receiving any amount from Bikshapathy. Such conduct of the petitioner is not free from *bona fides* and he is not expected to pass such receipts without receiving any amount to accommodate to an accused in a criminal case. The petitioner also instead of remitting the cheque of Rs.22,200/-, which was received through go-down rent let out by the Primary Agricultural Society, into bank account, opened S.B. account in SBI, Cherial Branch in the name of Society without bringing the same to the books of accounts of the Society, and had withdrawn Rs.10,000/- on 13.06.1991 and Rs.12,200/- on 14.06.1991 and utilized the same for his own purpose. In the explanation submitted by him, he admitted that he utilized the said amount for his own purpose, and agreed to pay the same in instalments fixed by the Bank.

One cannot dispute the fact that the employees working in the Bank dealing with public money, should maintain high standards of integrity and honesty, else, people will lose credibility in the Banks and the banking system. Every officer/employee of the bank is required to take all possible steps to protect the interests of the bank and to discharge his duties with utmost integrity, honesty, devotion and diligence and to do nothing which is unbecoming of a bank officer. If the charged employee holds a position of trust where honesty and integrity are inbuilt requirements of functioning, it would not be proper

to deal with the matter leniently. Misconduct in such cases has to be dealt with iron hands. In **State Bank of India v. Ramesh Dinkar Punde**[1], the apex Court observed that when a bank officer commits misconduct for his personal ends and against the interest of the bank and the depositors, he must be dealt with iron hands and not leniently.

In **Suresh Pathrella v. Oriental Bank of Commerce**[2], the apex Court held thus:

> "Regulation 3 (1) of the Regulations, 1982 ensures that every officer at all times takes all possible steps to protect the interests of the Bank and discharge his duties with utmost integrity, honesty, devotion and diligence and does nothing unbecoming of a bank officer. Such regulations are made to instill public confidence in the bank so that the interests of customers/depositors are well safeguarded. In such a situation the fact that no amount was lost to the bank would be no ground to take a lenient view for the proved misconduct of a bank officer. The appellant acted beyond his authority in breach of the Bank's regulation. It is a case of loss of confidence in the officer by the bank. In such a situation, it would be a futile exercise of judicial review to embark upon the decision of the disciplinary authority removing the officer from service, preceded by an enquiry, and to direct the bank to take back the officer in whom the bank had lost confidence, unless the decision to remove the officer was tainted with *mala fides*, or in violation of principles of natural justice and prejudicial to the officer. No such case is made out in the present case."

In the instant case also, the petitioner is in-charge Supervisor of Primary Agricultural Co-operative Society, Ladnoor and Supervisor of District Co-operative Central Bank of Narmetta. His duty is to collect money and remit the same into the banks account. But, the petitioner, having collected the money, failed to remit the same immediately and subsequently he remitted only part of the amount, and when the bank received rent for the go-down instead of remitting it to the bank account he opened another account and withdrew the same and utilized it for his personal needs, and in fact the petitioner admitted all these acts.

In that view of the matter, I see no reason to interfere with the award passed by the Labour Court, upholding the removal order passed by the disciplinary authority against the petitioner.

Accordingly, the writ petition is dismissed. No costs.

N.V. RAMANA, J.

Date: 30th October, 2007
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[1] (2006) 7 SCC 212
[2] (2006) 10 SCC 572